

PLANNING BOARD MEETING

TIPP CITY, MIAMI COUNTY, OHIO February 9, 2010

Meeting

Chairman Mark Springer called the meeting of the Tipp City Planning Board to order at 7:30 p.m.

Roll Call

Roll call showed the following Board members present: John Berbach, Mike McFarland, Mark Springer, and newly appointed Board member Scott Brownlee.

Others in attendance: City Planner/Zoning Administrator Matt Spring and Board Secretary Marilyn Fennell. Brent Arnett, Lauren Wise, Matt Fleese, Pam Fischer, Mayor Dee Gillis, and Council member Joe Gibson.

**Excuse Board
Member's Absence**

Mr. Springer **moved to excuse Ms. Davis'** absence. Mr. McFarland seconded the motion. Motion passed 4-0.

**Board member
sworn in**

Mayor Gillis swore in the newest Board member, Scott Brownlee.

**Approval of Minutes
January 12, 2010
Meeting**

Mr. Springer **moved to approve the minutes of the January 12, 2010 meeting as presented.** Mr. Berbach seconded the motion. Motion passed 4-0.

**Items not on the
Agenda**

There were no comments on items not on the agenda.

**NEW BUSINESS
Deadline Dates**

Mr. Springer announced the deadline for the March 9, 2010 meeting as follows: Preliminary Plans, Final Plats and Site Plans- February 15, 2010, 5:00pm.

Pam Fischer for St.
John the Baptist
Catholic Church,
753 S. Hyatt St.
Inlot 2247-
Temporary Use-
Festival

Mr. Spring stated the applicant is seeking approval for Temporary Use regarding a 3-day community festival to be located on the grounds of St. John the Baptist Catholic Church, July 9-July 11, 2010. Temporary uses are permitted in applicable zone districts by the grant of an occupancy permit issued by Planning Board in accordance with the requirements of this section. A non-profit festival is listed in Code §154.060(C)(1)(d). The proposed festival would consist of the following: 6-8 amusement rides, food sales, kids' game area, separate tent for gambling and beer sales, flea market and a stage with live bands. Mr. Spring continued that the festival is to be located in and around the southern half of the \pm 10 acre parcel. The area will include the southern off-street parking area and a portion of the western parking area as well as the grassy landscaped area. The applicant will utilize 4' tall orange construction fence around the perimeter of the property to enclose the festival and it will be removed at the conclusion of the festival.

Mr. Spring said a temporary dumpster for refuse collection will located in the south central portion of the off-street parking area. The midway-ride company will park in the western off-street parking area and will arrive approximately July 5th for set-up and inspection. The remainder off-street parking spaces will total 76 standard and 4 handicapped spaces. If the weather permits additional parking will be

allowed in the grass area. Mr. Spring said similar requests have been approved by Planning Board for 2008 and 2009 at this location.

Mr. Spring concluded with a staff recommendation for approval with the following conditions:

1. The Temporary Use shall only be valid only July 9, 2010 through July 11, 2010 with the hours of operation noted in this staff report. This approval also allows for the amusement company to arrive and begin set-up the Monday immediately prior to the event and tear-down and depart within two (2) days after the conclusion of the event.
2. The applicant shall obtain approval from the Tipp City Fire Chief prior to the erection of the any tents regarding fire safety regulations.
3. Serving of alcoholic beverages shall not be permitted without a permit from the Ohio Liquor Commission.
4. The sale of food products shall not occur without prior approval from the Miami County Health District and/or the State of Ohio as required.
5. All signage for the event shall comply with the Tipp City Sign Code and will require a separate Zoning Compliance Sign Permit, subject to approval.
6. All amplified stage sound equipment shall be discontinued by 10pm each evening.
7. All temporary structures (fencing, tents, dumpsters, portable toilets, etc.) must be removed by July 25, 2010.

Mr. Spring said that Mrs. Fischer was available to answer any questions from the Board.

Mr. Berbach asked if there have ever been any complaints registered. Mr. Spring said he has had none and Mrs. Fennell said she didn't recall any. Mr. Springer asked if there were any issues registered with the police department. Mrs. Fischer came forward and stated that Tipp City off-duty officers are hired for patrolling the festival site. She said there have been no reported incidents and none to the church offices. She said the Church has received compliments as they offer entertainment for families in these difficult economic times and it is easy access for all.

Mr. McFarland **moved to approve the application for a Temporary Use for St. John the Baptist Catholic Church at 753 S. Hyatt St. with the conditions recommended by staff for the festival to be held July 9-11, 2010.** Mr. Berbach seconded the motion. Mr. Springer asked for further comments. There were none. Motion passed 4-0.

Brent Arnett, 125
W. Broadway, Inlot
2393- Special Use-
Used Car Lot

Mr. Spring explained that the property is the current location of Superior Paint and Body and an associated impound lot. The applicant is seeking approval for an additional use, Superior Paint and Body Auto Sales. The property is located at the corner lot at W. Broadway and S. Fifth Street. There are no changes proposed for the automobile repair and painting operation or the impound lot. The existing inlot includes a 4,080 sq. ft. primary building, two overhead metal canopies, and an accessory structure.

The proposed automobile sales use will include 3 off-street parking spaces to display the used vehicles for sale and a 9'-2" x 18'-2" accessory structure for office space.

Mr. Spring continued that automobile sales use is not listed as a Permitted Use in the I-1D zoning district and he listed those in his staff report. The Planning Board has the authorization to approve other Special Uses that are not detrimental to the district and found not to be detrimental to the district, (Code §154.054(B)(2)). Therefore the Board will need to make the determination as to whether automobile sales are of the same general character as the permitted uses. It was the opinion of staff that automobile sales is of the same general character. If the Board agrees to that, then they must consider the General and Specific requirements for Special Uses.

Mr. Spring listed the General Requirements (#1-9) in his report and his opinion on how this request met those requirements. For the Specific Requirements he noted that the applicant indicated that the proposed automobile sales facility operation will be relatively small, with no more than three (3) vehicles on display at any time and the applicant has not proposed any changes to the exterior layout of the structure.

Mr. Spring continued with the parking considerations. The existing use for auto repair, painting and body shop requires 2 spaces for each service bay, plus 1 space for each employee and service vehicle, with a minimum of 6 spaces. The applicant has indicated that Superior Paint and Body has 6 service bays, 4 employees and zero service vehicles. Therefore the existing use requires 16 total off-street parking spaces, $(6 \times 2 + 12) + 4 + 0 = 16$.

Mr. Spring said the existing impound lot use is not specifically addressed by Tipp City Code. Mr. Spring said he checked with other codes for Miami County, Troy, Piqua, Huber Heights, Moraine, and Kettering and they do not address off-street parking requirements for impound lots either. Staff noted that the existing impound is staffed by the existing employees and is 3,871 square feet in area. Staff suggested that no additional spaces should be required for this use.

Mr. Spring said for the proposed use, Code 154.078(E)(27), states 1 parking space for each 800 square feet of floor area, plus 1 space for each 3,000 square feet of open lot area are devoted to the sale and display of motor vehicles. The applicant has indicated that the vehicle sale use will occupy 167 sq. ft. of floor area, and utilize 1,320 sq. ft. of open lot devoted to the sale and display of motor vehicles. Therefore the vehicle sales use requires zero total off street parking spaces. Adding this to the existing uses, 16 off-street parking spaces are required. Staff noted that this property also falls within the Legacy District and the number of parking spaces shall be reduced by 30% for all new or expanded off-street parking spaces. Therefore the off-street parking requirement for 125 W. Broadway for the existing Paint and Body shop and the proposed Auto Sales is 11 spaces, $(16 - 30\% = 11.2 \approx 11)$.

Staff noted that the proposed site utilizes an existing non-conforming off-street parking area that includes an asphalt paved area north of the primary structure. This lot contains eight (8) 10' x 20'

striped spaces along the northern property line and area for six (6) unstriped spaces along the western property line (S. Fifth Street). Three of these spaces on S. Fifth Street will be utilized as "display spaces" for the vehicles sales use, and the remaining three (3) spaces will fulfill the remaining required off-street parking requirements.

Code §154.076 does not require any handicapped accessible spaces for off-street parking areas requiring 0-24 spaces. The proposed off-street parking area will provide fourteen spaces therefore no handicapped accessible spaces are required or provided.

As configured, the site meets the off-street parking requirements of Code and allows for three (3) "display spaces" for vehicle sales. Although they cannot be counted towards the off-street parking requirements, there are eight (8) additional on-street parking spaces on Broadway Avenue that are consistently utilized by Superior Paint and Body customers.

Mr. Spring added that according to the Ohio Bureau of Motor Vehicles: Any person engaged in the business of offering for sale, displaying for sale, or selling motor vehicles at retail, is required to obtain an Ohio dealer's license. He noted that there are numerous state mandated requirements for used car dealerships. Accordingly, the applicant shall be required to provide an Ohio dealer's license for 125 W. Broadway Avenue prior to the issuance of an approved Zoning Occupancy/Change of Use Permit and/or utilization of this location for a used car dealership.

Mr. Spring concluded that staff recommended approval of a Special Use Permit for the addition of vehicle sales at 125 W. Broadway Avenue with the following conditions:

1. That the Planning Board finds the vehicle sales acceptable and of the same general character as the other permitted uses within the I-1D Zoning District and grants a "Special Use" for the same.
2. That no more than three (3) vehicles will be "for sale" on the lot at any one time.
3. Prior to the issuance of an approved Zoning Occupancy/Change of Use Permit, the applicant shall supply the City of Tipp City with an approved Ohio Dealers License for the sale of used vehicles on the premises.
4. The applicant shall comply with all State of Ohio requirements for the State licensing of used car dealerships.
5. That the applicant would obtain an approved Zoning Occupancy/Change of Use Permit prior to utilization of the structure for vehicle sales (application submitted, \$40 fee required).
6. A separate Zoning Compliance Certificate will be required for any signage, subject to approval, and is not included with this application.
7. The applicant must obtain authorization/approval from the Planning Board for any proposed exterior modifications to the site plan prior to the construction/undertaking of any such proposed modifications.

Mr. McFarland noted to the Board that this location was used in the 1950's and 1960's as an auto dealership therefore he found no problem with this use. Mr. Springer asked for any other comments or questions. Mr. Berbach asked about the number of 3 vehicles for sale and how was that number agreed to. Mr. Spring said that is what the applicant indicated. Mr. Spring said he met with Mr. Arnett at the site and they talked about the parking requirements. Mr. Brent Arnett came forward. He said he would not be displaying more than three. He said money was a consideration. Mr. Berbach said that was his point in that was the situation today but sometime in the future Mr. Arnett might be able to purchase more. Mr. Arnett said he knows the lot is only so big. Mr. Springer said in the recommendations, it says no more than three vehicles will be allowed. Mr. Berbach asked if that was enforceable. Mr. Spring replied that if there were more than three then that would be a violation of the Special Use Permit and it would void the permit. Mr. Berbach asked Mr. Arnett to show him on the photo where the cars would be parked. Mr. Arnett came to the dais and showed him. Mr. Berbach said the Board had worked on the requirements for the Legacy District and he encouraged uses that fit the District and he thought this was of the same general character and it was a good fit.

Mr. Springer asked about the number of off-street parking spaces. Mr. Spring said the one area of conjecture was the impound lot as there is no direct answer for that but he had given his opinion. There are 14 striped spaces and 11 are required.

Mr. Springer asked for further questions or comments. Mr. Paul Lee, 152 W. Franklin Street asked Mr. Spring if there were any other state requirements he was concerned with. Mr. Spring replied that he said there are numerous state mandated requirements for a used car dealerships. He did not specifically list any of the state's requirements. Mr. Lee said when he added used auto sales to his location on W. Main Street, he had to have a minimum of 180 sq. ft. building and it was required to have a minimum of 17 spots for a car lot. Mr. Lee said he thinks the Arnetts know that they cannot run a used car lot with three spaces. He asked Mr. Spring if he had checked with the BMV. Mr. Spring said he did check on requirements but the applicant cannot receive his Change of Use Permit unless he produces approval from the State. Mr. Berbach stated that if the Planning Board approves this request and he does not meet the state requirements and does not get his license then he would not receive the Occupancy Permit/Change of Use Permit. Mr. Springer said the overview of the Planning Board is not the BMV nor Ohio Liquor regulations. This Board's concern is the zoning of Tipp City. If the applicant is rejected by the State BMV then this proposed approval void. Mr. Lee thought that information would be valuable to the Planning Board. Mr. Springer said it was good information but with that recommendation then it would proper. Mr. Lee thought it would be good to include the state requirements. Mr. Spring said this Board does not want to get into validating state requirements. Mr. Berbach said they were not qualified to interpret Ohio regulations.

Mr. Lee said that was fine but he had another issue with the impound lot. He asked what the requirement was for an impound lot. Mr. Spring said that had been discussed and there are no specific requirements for that type of use. His recommendation was that there

were no parking spaces required for the existing impound lot. Mr. Lee asked if he put in an impound lot it would not require any additional parking spaces. Mr. Spring said if Mr. Lee wanted to add the same amount of space to his existing lot then he would not have to enlarge his parking area. There is not much code that addresses it. Most examples of code he found seem to go by the number of employees or the size of the lot in other communities. Mr. Springer asked if an impound lot was defined in the Tipp City code. Mr. Spring said the word "impound lot" does not appear. Mr. Lee asked if the City used that existing lot. Mr. Spring said he understood the Police Department uses it.

Mr. Arnett said he had information with him from the internet and it stated that a "display lot" needed to be 3500 sq. ft. and it did not list a specific number of spaces.

Mr. Springer asked for further comments. There were none. Mr. Berbach **moved to approve the Special Use Permit for 125 W. Broadway, Inlot 2393, with the recommendations provided in the staff report to include the necessity of a State of Ohio BMV license for the used car sales.** Mr. McFarland seconded the motion. There was no further discussion. The motion passed 4-0.

Old Business

Mr. Springer said the only item under Old Business to discuss was the Bruns Industrial Park Concept Sketch that was tabled on March 11, 2008. Mr. Spring said the item was tabled in 2008 and Steve Bruns has indicated that the property has been sold to undisclosed buyer and Mr. Bruns is asking that the item be removed from the table and the item be removed from the Planning Board agenda. He had 2 recommended motions in his staff report to the Planning Board.

Mr. Springer **moved to bring this item off the table.** Mr. Brownlee seconded the motion. Motion passed 4-0.

Mr. McFarland **moved to remove the Bruns Industrial Park Conceptual Sketch from the agenda per the request of the applicant.** Mr. Berbach seconded the motion. Motion passed 4-0.

Miscellaneous

City Council 2010
Meeting Assignments

Mr. Springer explained the City Council attendance schedule to Mr. Brownlee and Mr. Brownlee volunteered for the April meetings.

City Council
Reports:
January 18, 2010-
Mr. McFarland

Mr. McFarland reported City Council acted on a Resolution to file a grant application to the Ohio Department of Natural Resources for recreational trails at their January 18, 2010 meeting.

February 1, 2010-
Mr. Berbach

Mr. Berbach attended the February 1, 2010 meeting and reported Mr. Brownlee was appointed to the Planning Board and a hearing date was set for February 16th for the matter that had been previously before Planning Board for Gardens Alive. Gardens Alive has appealed the decision on the required paved parking area to the Board of Zoning Appeals and now it is before City Council. Mr. Berbach said he would be attending the Council meeting and is going to express that the guidelines that the Boards have been asked to follow are being bypassed and Mr. Berbach did not think the Boards opinions should be overturned.

Board member
comments

Mr. Berbach complimented Mr. Spring on the manner in which he broke down each requirement in his staff report on the Arnett request. He welcomed Mr. Brownlee to the Board. And he wished to compliment City personnel on the street-snow removal efforts.

Mr. McFarland welcomed Mr. Brownlee and his input to the Board. He also raised the issue of impound lots/salvage yards not being addressed in the current code. He asked Mr. Spring to take a look into this matter and see if a workshop is needed. Mr. Springer asked if salvage yards were mentioned in the code. Mr. Spring said he could not locate references to either terms. Mr. McFarland thought it might be best to be pro-active on the matter. Mr. Springer agreed with that. Mr. Spring said he would address definitions and zoning districts. Mr. McFarland also complimented city crews on the snow removal.

Mr. Brownlee said it was nice to be on the Board and the corner of 5th and Broadway was once the used car lot of D.W. Mote's in the late 1940s.

Mr. Springer also welcomed Mr. Brownlee. He also asked if a Zoning Map could be provided for him. Mrs. Fennell said she would check on that. Mr. Spring added that City Council has not had their retreat and there are no specific items for the Planning Board at this time.

Adjournment

Mr. Berbach **moved that the meeting be adjourned**. Mr. Brownlee seconded the motion. Chairman Springer declared the meeting adjourned at 8:25 pm


Mark Springer, Planning Board Chairman

Attest: 
Marilyn Fennell, Board Secretary